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In the Supreme Court of the United States

OCTOBER TERM, 1963

NO. 5, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF CALIFORNIA

ON MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINT OR ORIGINAL COMPLAINT

JOINT STATEMENT OF THE PARTIES REGARDING THEIR CORRESPONDENCE AND DISCUSSIONS BETWEEN 1954 AND 1963

The "Memorandum for the United States (1) in Reply to Opposition to Motion for Leave to File Supplemental Complaint or Original Complaint, and (2) in Opposition to Motion to Dismiss" contains the following statements:

> * * * In connection with California's motion, our statement of facts should be supplemented by pointing out that since 1954 the United States and the State have been conducting negotiations, by conferences and by correspondence, in an attempt to work out some means of reaching a permanent or interim settlement of their boundary dispute

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> before resorting to further prosecution of this case (pp. 1–2).
>
> * * * Here, where the parties have been engaged ever since 1954 in continuing efforts to work out a permanent or interim settlement that would obviate or simplify further prosecution of this case, it is evident that there has been no intention by the United States to abandon its position, or to discontinue this litigation if the negotiations should prove fruitless (p. 18).

California regards these as inaccurate characterizations of the exchanges which have occurred.

So that the Court may make its own evaluation, the parties have filed with the Clerk a single set of copies of letters that have been exchanged and memoranda describing discussions that have taken place. Except for one letter of April 4, 1963, which is a reply to a February 26, 1963, communication, all of these documents are dated prior to the filing of the United States Motion on March 14, 1963.

The United States does not believe that the nature of these discussions has any direct bearing upon the issues now before the Court. However, the United States contends that, if relevant, the correspondence and memoranda speak for themselves and show that since 1954 there have been continuing discussions between the parties relating to (1) an attempt to secure from California a statement of its maximum claim so that the United States could proceed with permanent leasing farther seaward, (2) the possibility of an interim arrangement for jointly author-

ized leasing in the disputed area pending final resolution of the dispute as to the limit of state jurisdiction, and (3) the possibility of reaching a mutual understanding as to the seaward limit of California.

California's position is that the facts do not, as contended by the United States, excuse the Government's 10-year delay in attempting to reactivate the previously filed case. California agrees that there were discussions relating to the first two matters mentioned by the United States; but it maintains that these discussions related solely to the possibility of leasing during the period of controversy, and even if successful would not have resolved the underlying boundary dispute nor obviated or simplified its adjudication. California further contends that the records show that the subject of a negotiated boundary settlement first arose in October 1961 (almost 9 years after United States had taken any action in the subject case) when California offered to initiate negotiations for this purpose; and that this offer was not accepted and did not result in any boundary settlement negotiations prior to the filing of the United States Motion in March 1963. Finally, California asserts: (1) that the State has never conceded (nor does the United States claim it has conceded) that the boundary dispute under the Submerged Lands Act of 1953 could be determined in the case filed in 1945, although it has, of course, recognized the existence of such a dispute; and (2) that the record will not support even an inference that the

long delay in prosecution was to any degree attributable to the pendency of negotiations.

ARCHIBALD COX,
Solicitor General of the United States.
STANLEY MOSK,
Attorney General of California.

NOVEMBER 4, 1963.

U. S. GOVERNMENT PRINTING OFFICE: 1963

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